

Senate Bill 234

By: Senators Fort of the 39th, Reed of the 35th, Tate of the 38th, Butler of the 55th, Orrock of the 36th and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to procedure for sentencing and imposition of punishment, so as to repeal certain provisions regarding sentencing of defendants guilty of crimes involving bias or prejudice, circumstances, and parole; to provide for sentencing of certain defendants guilty of crimes which target a victim due to the victim's race, religion, gender, gender identity, sexual orientation, or national origin, circumstances, and parole; to provide for enhanced sentences in any case in which the trier of fact determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property of the victim as the object of the offense because of the victim's race, religion, gender, gender identity, sexual orientation, or national origin; to provide for certain exceptions; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to procedure for sentencing and imposition of punishment, is amended by repealing Code Section 17-10-17, relating to sentencing of defendants guilty of crimes involving bias or prejudice, circumstances, and parole, and enacting a new Code Section 17-10-17 to read as follows:

"17-10-17.

(a) Subject to the notice requirement provided in Code Section 17-10-18 and in enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property of the victim as the object of the offense because of the victim's race, religion, gender, gender identity, sexual orientation, or national origin, the judge imposing sentence shall:

(1) If the offense for which the defendant was convicted is a misdemeanor, increase the sentence and the fine normally imposed by the court through court policy or voluntary sentencing guidelines by 50 percent up to the maximum authorized by law;

(2) If the offense for which the defendant was convicted is a misdemeanor of a high and aggravated nature, increase the sentence and fine normally imposed by the court through court policy or voluntary sentencing guidelines by 50 percent up to the maximum authorized by law; or

(3) If the offense for which the defendant was convicted is a felony, increase the sentence normally imposed by the court through court policy or voluntary sentencing guidelines by up to five years, not to exceed the maximum authorized by law; provided, however, that if the defendant was less than 18 years of age at the time of the offense, the judge shall have the discretion to reduce the enhanced penalty provided for in this subsection.

(b) When the judge imposes the sentence, the judge shall state the amount of the increase of the sentence based on the application of subsection (a) of this Code section.

(c) Any person convicted of a felony and given an enhanced sentence under this Code section shall not be eligible for any form of parole or early release until such person has served at least 90 percent of the sentence imposed by the sentencing court."

SECTION 2.

This Act shall not apply to any offense committed before August 1, 2009.

SECTION 3.

This Act shall become effective on August 1, 2009.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.